

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Anthony Rife,

**Plaintiff,**

V.

## Randolf Ezrre Wholesale Auto Sales LLC,

## Defendants.

No. CV-19-04689-PHX-DLR

## **SETTLEMENT CONFERENCE ORDER**

## Randolf Ezrre Wholesale Auto Sales LLC,

## Defendants.

This case has been referred to United States Magistrate Judge John Z. Boyle for a Settlement Conference.

Rule 408 of the Federal Rules of Evidence applies to all aspects of the Settlement Conference. All communications and information exchanged during the settlement process, not otherwise discoverable, will not be admissible in evidence for any purpose. All matters communicated expressly in confidence to the Court during the Settlement Conference will be kept confidential and will not be disclosed to any other party absent express consent to do so. At the conclusion of the Settlement Conference, all documents submitted by the parties will be returned, destroyed or otherwise disposed of in the manner directed by the Court.

Pursuant to Rule 16 of the Federal Rules of Civil Procedure and 28 U.S.C. §473(b)(5), **IT IS ORDERED** that all parties and, if represented, their counsel, shall physically appear before United States Magistrate Judge John Z. Boyle, in Courtroom 302, Sandra Day O'Connor U.S. Courthouse, 401 West Washington Street, Phoenix,

1 Arizona, on **March 31, 2020** at **1:30 p.m.** The Conference will continue until either the  
2 case settles or the parties are no longer making meaningful progress.

3 Prior to the Settlement Conference, the parties must negotiate and make a good  
4 faith effort to settle the case without the Court's involvement. Plaintiff must deliver a  
5 written settlement demand to Defendants at least **fourteen days** before the Settlement  
6 Conference. Defendants must deliver a written response to Plaintiff at least **seven days**  
7 before the Settlement Conference. Prior to the Settlement Conference, the Court may  
8 contact counsel for each party individually to schedule separate conference calls. During  
9 these conference calls, the Court will discuss the status of settlement and any matters to  
10 facilitate the Settlement Conference.

11 Each party must provide the Court with a Confidential Settlement Conference  
12 Memorandum at least **seven days** before the Settlement Conference. The parties may  
13 include with their Memoranda copies of exhibits they would like the Court to review  
14 prior to the Settlement Conference. However, the parties shall not include copies of any  
15 pleadings or other documents for review that were previously submitted to the Court and  
16 are already part of the record. The parties shall instead direct the Court to the location of  
17 any such pleadings or documents.

18 Each party's Confidential Settlement Conference Memorandum must not exceed  
19 five pages exclusive of attachments and must contain the following information:

- 20 1. A brief statement of the facts of the case;
- 21 2. An analysis of the claims or defenses as appropriate for the party, including  
22 citation to appropriate authorities, a forthright evaluation of the parties'  
23 likelihood of prevailing on the claims and defenses, and a description of the  
24 major issues in dispute;
- 25 3. A summary of the proceedings to date, including rulings on motions,  
26 pending motions, and the status of discovery;
- 27 4. Whether there are distinct or dominant issues which, if resolved, would  
28 likely aid in the disposition of the case;
- 29 5. An estimate of the fees and costs incurred to date, as well as an estimate of  
30 the fees and costs to be expended for further discovery, dispositive motions,  
31 and trial;
- 32 6. A reasonable estimate of Plaintiff's alleged damages;

- 1        7. A summary of prior settlement discussions and offers;
- 2        8. Each party's current position on settlement; and
- 3        9. Any other information that the parties believe would help the Court  
4           facilitate the Settlement Conference.

5           The parties may deliver their Memoranda directly to chambers (Sandra Day  
6 O'Connor United States Courthouse, 401 West Washington Street, Phoenix, Arizona,  
7 85003, Suite 322) or submit them by electronic mail  
8 ([boyle\\_chambers@azd.uscourts.gov](mailto:boyle_chambers@azd.uscourts.gov)). However, if a party's Memorandum with any  
9 exhibits exceeds twenty-five pages, the party must deliver a hard copy to chambers. **The  
10 parties shall not file their Confidential Settlement Conference Memoranda with the  
11 Clerk of the Court. The parties also shall not exchange their Confidential  
12 Settlement Conference Memoranda.**

13          Counsel who will be responsible for trial of the lawsuit for each party shall  
14 personally appear and participate in the Settlement Conference. In addition,  
15 representatives of the parties with full and binding authority to dismiss and settle the case  
16 must be physically present unless expressly excused for good cause by timely motion and  
17 an order issued prior to the Settlement Conference. If a party is an insured party, a  
18 representative of that party's insurer with full and binding authority to discuss and settle  
19 the case must physically appear at the Settlement Conference.

20          Counsel and any unrepresented party shall notify the Court in writing at least **five  
21 business days** before the Settlement Conference if one or more of the attorneys or  
22 unrepresented parties believe that the Settlement Conference would be futile because, for  
23 example, a party or insurer has adopted a position from which they refuse to deviate. The  
24 Court will arrange a telephonic conference with counsel and any unrepresented party as  
25 soon as possible. If the Court is not notified by either party that a Settlement Conference  
26 would be futile, the Court will presume that all counsel, their clients, and any  
27 unrepresented party believe that there is a reasonable, good faith opportunity for  
28 settlement.

Absent good cause, if any party, counsel, or representative fails to promptly appear at the Settlement Conference, fails to comply with the terms of this Order, is substantially unprepared to meaningfully participate in the Settlement Conference, or fails to participate in good faith in the Settlement Conference, the Court may impose sanctions pursuant to Rules 16(f) and 37(b)(2) of the Federal Rules of Civil Procedure.

6 Dated this 4th day of February, 2020.

  
Honorable John Z. Boyle  
United States Magistrate Judge